WEST VIRGINIA RIVERS

June 22, 2021

West Virginia Department of Environmental Protection
Division of Water and Waste Management
401 Certification Program
601 57Th St
Charleston WV 25304

Submitted electronically to WQScomments@wv.gov

RE: Section 401 Water Quality Certification for Mountain Valley Pipeline

Dear Mr. Bridgewater,

West Virginia Rivers Coalition, on behalf our members and the organizations signed below, respectfully submit the following comments to the West Virginia Department of Environmental Protection (WVDEP) on the Mountain Valley Pipeline LLC's (MVP) Section 401 Water Quality Certification. Additionally, we endorse the comments submitted by Appalachian Mountain Advocates.

Section 401 of the Clean Water Act (CWA), 33 U.S.C. § 1341, requires any applicant for a federal license or permit that could result in a discharge to navigable waters to provide a certification from the State in which the discharge originates that the activity will comply with sections 301, 302, 303, 306, and 307 of the Act. By issuing such a certification, a State warrants that the proposed activity will not, among other things, cause or contribute to violations of water quality standards within its borders.

Construction of the MVP presents numerous threats to water quality that have already resulted in violations of water quality standards and other requirements of the CWA. WVDEP cannot rationally conclude that the impacts of MVP's construction will not cause or contribute to violations of water quality standards or otherwise violate sections 301, 302, 303, 306, and 307 of the CWA. MVP's history of water quality violations and non-compliance with the requirements of their Stormwater Construction permit simply does not provide reasonable grounds for WVDEP to certify the project. On the contrary, WVDEP has already cited MVP for violating water quality standards and creating conditions not allowable in waters of the state. Therefore, WVDEP must reject MVP's request for certification on the following grounds:

WVDEP must deny MVPs request for an individual 401 Water Quality Certification because the discharges will contribute to water quality standard violations and cause significant adverse impacts to the aquatic ecosystem.

Section 401(a)(2) of CWA clearly states, "…shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit." The applicable water standards at issue here include the narrative water quality criteria adopted by the State

of West Virginia to protect aquatic life, as well as the anti-degradation policies adopted by West Virginia. Specifically, those water quality standards include:

- West Virginia narrative water quality criteria that prohibit discharges that cause or materially contribute to
    - "Distinctly visible floating or settleable solids, suspended solids, scum, foam or oily slicks;" (W. Va. C.S.R. § 47-2-3.2.a);
    - "Deposits or sludge banks on the bottom;" (Id. § 47-2-3.2.b);
    - "Materials in concentrations which are harmful, hazardous or toxic to man, animal or aquatic life;" (Id. § 47-2-3.2.e);
    - "Any other condition . . . which adversely alters the integrity of the waters of the States, including wetlands; no significant adverse impact to the chemical, physical, hydrologic, or biologic components of aquatic ecosystems shall be allowed." (*Id.* § 47-2-3.2.i);
- West Virginia's anti-degradation policy (id. § 47-2-4.1) and its attendant implementation policy (id. § 60-5-1 et seq.)

MVP's discharges have and will continue to violate the above standards. Table 1 shows the consistent nature of MVP's violations of water quality standards as cited by the WVDEP Environmental Enforcement Department.

Table 1. Violations of Water Quality Standards Cited by WVDEP Inspectors

Date	Violation Number	Violated the following WV Legislative Rules (Requirements Governing Water Quality Standards):
May 9, 2018	W18-52-001-CP	Title 47, Series 2, Section 3.2.b.-Section 3.2.b. - Permittee has caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of the stream.
June 6, 2018	W18-09-076-TJC	Title 47, Series 2, Section 3.2.a.- caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in UNT Meathouse Fork (39° 11.891' X 80° 33.209'). Title 47, Series 2, Section 3.2.b.-Caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of UNT Dry Fork (39° 11.384' X 80° 33.554')
July 17, 2018	W18-52-003-CP	Title 47, Series 2, Section 3.2.b.-Section 3.2.b. - Permittee has caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of UNT of Birch River (S-F34).
July 18, 2018	W-18-52-004-CP	Title 47, Series 2, Section 3.2.b.-Section 3.2.b. - Permittee has caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom and banks of UNT of Harmony Creek
July 27, 2018	W18-17-077-TJC	Title 47, Series 2, Section 3.2.b.-Caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of Grass Run (S-A11a).
Aug 1, 2018	W18-17-082-TJC	Title 47, Series 2, Section 3.2.a.- caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in Right Fork of Big Elk Creek (39° 26.6589' X 80° 28.9724'), Goose Run (39° 26.17952' X 80° 28.5256') and UNT Goose Run (39° 26.100' X 80° 28.4922').

		Title 47, Series 2, Section 3.2.b.-Caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of in UNT Goose Run (39° 26.100' X 80° 28.4922'), Seal Run (39° 20.4891' X 80° 30.7324') and Grass Run (39° 20.1127' X 80° 31.3233').
Aug 2, 2018	W18-52-005-CP	Title 47, Series 2, Section 3.2.a.- Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in Stony Creek and Slate Run.
Aug 10, 2018	W18-09-083-TJC	Title 47, Series 2, Section 3.2.a.- caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in UNT Meathouse Fork (39° 11.891' X 80° 33.209'). Title 47, Series 2, Section 3.2.b.-Caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of UNT Meathouse Fork (39° 11.891' X 80° 33.209'), UNT Dry Fork (39° 11.377' X 80° 33.566'), UNT Kincheloe Creek (39° 10.006' X 80° 34.736'), Wetland UNT Kincheloe Creek (WJ-40) (39° 10.060' X 80° 34.626'), Wetland UNT Smoke Camp Run (W-I26) (39° 08.208' X 80° 34.610'), Wetland UNT Left Fork of Freemans Creek (W-B47) (39° 04.744' X 80° 34.904), UNT Laurel Run (39° 01.133' X 80° 35.813') and Laurel Run (39° 01.043' X 80° 35.867').
Aug 13, 2018	W18-10-001-JHH	Title 47, Series 2, Section 3.2.b.-Caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of wetland WQR-1 and stream A-104 (both are UTs of Buffalo Creek of the Meadow River).
Sept 20, 2018	W18-52-009-CP	Title 47, Series 2, Section 3.2.a.- Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in UNT of Painters Run along access road 231.01 off Painters Run Road near station 10270
Sept 25, 2018	W18-52-011-CP	Title 47, Series 2, Section 3.2.a.- Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in UNT of Little Kanawha River.
Sept 25, 2018	W18-52-010-CP	Title 47, Series 2, Section 3.2.a.- Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in UNT of Knawls Creek.
Sept 26, 2018	W18-32-001-JTL	Title 47, Series 2, Section 3.2.a.- Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in Stream S-H58 and TTWV-S-E58 that flow into Hans Creek.
Sept 27, 2018	W18-32-002-JTL	Title 47, Series 2, Section 3.2.a.- Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in Stream S-A60, Stream S-Z4, Stream S-Z5, Wetland W-22 and Indian Creek.
Oct 2, 2018	W18-32-003-JTL	Title 47, Series 2, Section 3.2.a.- Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in pond (P-D1) and stream (S-D29) at station #9687.
Nov 27, 2018	W18-52-014-CP	Title 47, Series 2, Section 3.2.a.- Responsible party has caused

		conditions not allowable in waters of the State by allowing distinctly visible settleable solids in Knawl's Creek.
Feb 6, 2019	W19-32-002-JTL	Title 47, Series 2, Section 3.2.a.- Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in an UNT of Brammer Branch
Apr 22, 2019	W19-45-008-JTL	Title 47, Series 2, Section 3.2.b.- Permittee has caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of stream S-T35(A) a tributary of Lick Creek.
July 9, 2019	W19-45-021-JTL	Title 47, Series 2, Section 3.2.b. - caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of the stream.: Permittee has caused conditions not allowable in waters of the State by allowing sediment deposits in Stream S-T35A an UNT of Lick Creek at station No. 8634+00 MVP ROW.
July 18, 2019	W19-51-024-JTL	Title 47, Series 2, Section 3.2.a.- Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in a conveyance/ephemeral stream that becomes Fall Run a tributary of the Holly River.
Aug 7, 2019	W19-45-026-JTL	Section 3.2.b. - Permittee has caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of Stream S-K16 and UNT of Hungard Creek near station No. 8929+00.
Aug 14, 2019	W19-04-073-TJC	Title 47, Series 2, Section 3.2.b.-Caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of Keith Run (38° 47.179' X 80° 31.816') in two locations.
Sept 11, 2019	W19-17-030-JTL	Section 3.2.a-Responsible party has caused conditions not allowable in waters of the State by allowing distinctly visible settleable solids in Stream S-B75 (Goose Run) a tributary of Big Elk Creek.
Nov 7, 2019	W19-04-032-JTL	Section 3.2.b-Permittee has caused conditions not allowable in waters of the State by allowing sediment deposits on the bottom of a stream: Permittee has caused conditions not allowable in waters of the State by allowing sediment deposits in Stream S-L49 (Elliott Run) a tributary of Little Kanawha River at station No. 3946+00 and by allowing erosion controls pellets in Elliott Run (Stream S-L49) and Stream S-H117.

MVP's discharges have already caused approximately 27 violations of § 47-2-3.2.a and § 47-2-3.2.b since construction began, which impacted approximately 50 streams. MVP construction will continue to contribute to water quality standards violations; therefore, WVDEP must deny their water quality certification.

WVDEP must deny MVP's application because they fail to provide evidence that they will be able to meet the state's water quality standards for turbidity.

West Virginia has a numeric turbidity standard which essentially creates a numeric limit for suspended material that can be measured instream while allowing for a healthy aquatic community (referred to as

"meeting its designed or existing use"). This standard specifically states in W. Va. C.S.R. § 47-2, Appendix E, Table 1, 8.33:

> "No point or non-point source to West Virginia's waters shall contribute a net load of suspended matter such that the turbidity exceeds 10 NTU's over background turbidity when the background is 50 NTU or less, or have more than a 10% increase in turbidity (plus 10 NTU minimum) when the background turbidity is more than 50 NTUs. This limitation shall apply to all earth disturbance activities and shall be determined by measuring stream quality directly above and below the area where drainage from such activity enters the affected stream. Any earth disturbing activity continuously or intermittently carried on by the same or associated persons on the same stream or tributary segment shall be allowed a single net loading increase."

The turbidity standard goes on to state in 8.33.1:

> "This rule shall not apply to those activities at which Best Management Practices in accordance with the State's adopted 208 Water Quality Management Plan are being utilized, maintained and completed on a site-specific basis as determined by the appropriate 208 cooperative or an approved Federal or State Surface Mining Permit is in effect. This exemption shall not apply to Trout Waters."

While WVDEP never required turbidity monitoring for MVP's previous construction; however, it is apparent from the number of water quality violations that turbidity standards were not being met. Allowing MVP construction to continue would be a violation of water quality standards.

MVP would cross 5 source water protection areas for public water utilities. High turbidity levels in source water put a burden on water utilities by clogging filters and having to replace them more frequently. If the turbidity gets too high and overwhelms the filters, the water utility may be forced to issue a boil water advisory which creates a hardship for the whole community and the residents and businesses that rely on clear water. High turbidity can also have severe impacts on public health. Excess sediment in source water accelerates the formation of haloacetic acids when chlorine is added to treat the raw water. Haloacetic acids have been linked to increased risk of cancer. Haloacetic acids are regulated by EPA under the Safe Drinking Water Act. Excess sediment in source water can cause the utility to exceed the maximum contaminant level. DEP must require MVP to perform a sediment and turbidity analysis to conclude that the source water protection area crossings will not cause increased sediment levels in water treatment facilities and violate the State's water quality standards for turbidity.

WVDEP must reject MVP's Water Quality Certification because the activities will cause significant adverse impacts to aquatic life.

MVP construction will violate § 47-2-3.2.i which states, "…no significant adverse impact to the chemical, physical, hydrologic, or biologic components of aquatic ecosystems shall be allowed." Pipeline construction is known to cause significant adverse impacts to the ecosystem for upwards of four to five

years following construction. In the September 2020 Biological Opinion (2020 Bi-Op), the US Fish and Wildlife concluded:

> "effects to benthic invertebrates in aquatic areas that receive significant increased sedimentation as a result of the MVP will persist for up to four years (p. 96)."

The decreased populations of benthic macroinvertebrates will be detrimental to the aquatic species that feed on them causing significant adverse impacts to the aquatic ecosystem, including sensitive trout species and the endangered Candy Darter.

MVP identifies a total of 52 trout streams that will be impacted by the project. Construction activities within trout streams will result in loss of habitat, changes in the thermal conditions of the waterbody, increased turbidity and erosion, and stream bank instability. The project will result in 100% loss of riparian vegetation within the right-of-way. The application fails to explain how they will avoid impacts to 52 trout streams. On the contrary, in MVP's Table 15 Crossing Method Determination, they have chosen to bore under only two trout streams leaving the remaining 50 trout streams vulnerable to bank destabilization, vegetation removal and increased turbidity. The Final Environmental Impact Statement specifically states:

> "Increased sedimentation and turbidity resulting from in-stream and adjacent construction activities could displace and impact fisheries and aquatic resources. Sedimentation could smother fish eggs and other benthic biota and alter stream bottom characteristics, such as converting sand, gravel, or rock substrate to silt or mud. These habitat alterations could reduce juvenile fish survival, spawning habitat, and benthic community diversity and health. Increased turbidity could also temporarily reduce dissolved oxygen levels in the water column and reduce respiratory functions in-stream biota. Turbid conditions could also reduce the ability for biota to find food sources or avoid prey. The extent of impacts from sedimentation and turbidity would depend on sediment loads, stream flows, stream bank and stream bed composition, sediment particle size, and the duration of the disturbances (p. 4-216)."

In addition, MVP has already violated water quality standards in 2 trout streams, Unnamed Tributary of Skelt Run and Unnamed Tributary of Hominy Creek. Hominy Creek Watershed and Riley Branch are particularly vulnerable with Hominy Creek and 13 unnamed tributaries are planned to be crossed and Riley Branch itself is crossed four times. DEP cannot legally issue MVP's water quality certification knowing there will be significant adverse effects on trout streams.

MVP construction also impacts the endangered Candy Darter (CD) critical habitat. The route crosses the Gauley River critical habitat and several tributaries that will transport sediment into the critical habitat area of the Gauley River. The 2020 Bi-Op states:

> "The CDs are generally intolerant of excessive stream sedimentation and resulting cobble embeddedness… CDs have a relatively short life cycle, reaching sexual maturity by age 2 and often dying during their third year (p. 49). We anticipate adverse effects to CD from upland sediment contributions in the following waterbodies: Stony Creek and the Gauley River (p.73)."

Additionally, WVDEP must take into consideration that sediment release could also occur from boring activities. On August 14, 2019 WVDEP issued Violation No W19-21-074-TJC which stated:

> "An improperly installed straw bale dewatering structure was noted in the Cove Run watershed adjacent to 2770+00. The dewatering structure had a layer of impermeable plastic inside of the geotextile fabric which caused the structure to not function as designed…The offsite sediment laden water adjacent to 2919+50 occurred due to a dewatering operation at the time of inspection."

On September 11, 2019 WVDEP issued Violation No W19-17-030-JTL which stated:

> "*At station No. 645+35 the dewatering structure used for the Stream S-B75 bore was not being maintained and operated properly causing the structure to not function as designed causing conditions not allowable in Stream S-B75 (Goose Run)… Sediment Laden water was observed leaving a dewatering structure used for the boring under Stream S-B75 (Goose Run)."*

A pipeline company with an excellent record of compliance might be able to minimize impacts on the endangered species through underground borings; however, MVP's history of non-compliance clearly shows that significant adverse impacts to the endangered Candy Darter are eminent should construction resume using any method of stream crossing. We therefore ask WVDEP to require a 401 Water Quality Certification for boring activities as well.

WVDEP must deny MVP's Water Quality Certification because cumulative watershed-scale impacts and the effect on water quality and watershed health have not been fully analyzed.

The overall health of a watershed is dependent on its network of tributaries. The inter-connected streams contribute to the quality of water within a watershed and support the physical and biological need of the system. The cumulative effect of tributary water quality on watershed-scale health is especially important in native trout streams and rivers that support endangered aquatic species like the candy darter. A project of this magnitude that impacts multiple watersheds must be assessed at a regional scale.

An example in New York demonstrates the need for close scrutiny of cumulative impacts by states when determining whether a project can be certified pursuant to CWA section 401. In April 2016, the New York State Department of Environmental Conservation denied a section 401 Water Quality Certification for the proposed Constitution Gas Pipeline. The Department's rationale for denial included an examination of the pipeline's cumulative impacts on waterways:

> [c]umulatively, impacts to both small and large streams from the construction and operation of the Project can be profound and include loss of available habitat, changes in thermal conditions, increased erosion, creation of stream instability and turbidity, impairment of best usages, as well as watershed-wide impacts resulting from placement of the pipeline across water bodies in remote and rural areas.

MVP's 401 application contains no information on the project's total impacts within each watershed, which prevents DEP from determining the overall impacts of the project and concluding that the project will not jeopardize the state's water resources. MVP provide Table 7 Watersheds Crossed by Project, but it included no information on the number of stream crossings for each watershed and the number of stream crossings on each stream if waterbodies are crossed multiple times.

At the landscape level, impacts from the ROW are exacerbated by the cumulative impacts of the proposed access roads. There is a negative correlation between road miles within a watershed and water quality. MVP's application contained no analysis of the pre-construction vs. post-construction. The ratio of new roads within a sub-basin must be performed to adequately assess the impacts from the proposed project.

WVDEP cannot rely on the effectiveness of best management practices to ensure water quality standards will be met.

To support the assertion that the proposed project will comply with the CWA and will not cause violations of water quality standards, MVP relies primarily on its compliance with best management practices (BMPs) outlined in FERC's procedures and MVP's Sediment and Erosion Control Plan and Stormwater Pollution Prevention Plan (SWPPP). Past experience demonstrates, however, that those measures are insufficient to prevent water quality standards violations. WVDEP Environmental Enforcement has cited MVP 55 times for violating their stormwater permit requirements.

The proposed project impacts aquatic life due to increased sedimentation not just from the stream crossings themselves, but also from the runoff from the significant land disturbance that occurs in upland areas during construction. Such disturbance undoubtedly leads to increased sedimentation in waterbodies down gradient from the disturbed soils. Erosion and sedimentation controls on MVP have been known to fail under heavy rain events and sedimentation and erosion is more prominent on steeper slopes adjacent to bodies of water. There are numerous examples of significant sedimentation impacts occurring during pipeline construction despite the use of industry-standard erosion and sedimentation controls. WVDEP Inspectors have consistently required enhanced erosion control measures and modifications to the SWPPP and those modifications have consistently failed.

Even when not in active construction, erosion and sedimentation continues to occur due to failure to operate and maintain treatments and control measures.

Table 2. Violations of MVP's Stormwater Construction Permit Cited by WVDEP Inspectors

Date	Violation Number	Violated the following terms and conditions of WV/NPDES General Water Pollution Control Permit No. WV0116815, Registration No. WVR310667:
Apr 3, 2018	W18-52-021-RDD	Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through silt sock located at the Bradshaw Compressor Station. Section G.4.e.2. - Permittee has failed to properly implement controls: lack of drop inlet protection at the Mobley Compressor

		Station.
May 9, 2018	W18-52-001-CP	Section G.4.e.2. - Permittee has failed to implement appropriate controls which allowed a failure of controls at station 9492+92.85 allowed sediment laden water to leave site without going through an appropriate device. Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device.
May 9, 2018	W18-52-002-CP	Section G.4.c. - Permittee has failed to modify your SWPPP when the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges- additional controls were not added to areas where installed controls failed. Section G.4.e.2. - Permittee has failed to implement controls: water bars/slope breakers were improperly installed- did not have outlets, outlet was directed down denuded slope, slope of water bar was inappropriate, and inadequate number of bars were installed. Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device from control failure at stations 6812+58 (sheet 6.38) and 6854+00 (sheet 6.39).
June 6, 2018	W18-09-076-TJC	Section G.4.e.2.- failed to properly implement controls: improperly installed water bars were noted in areas scattered throughout the inspected area. An improperly installed BMP at the terminus of a water bar located adjacent to the Dry Fork access (MVP-DO-049) caused sediment laden water to bypass the device Section D.1.- failed to operate and maintain all erosion control devices. An improperly operated temporary right of way diversion and outlet was noted at 1851+00. This deficiency caused sediment laden water to leave the site and CNA was noted as a result. Section G.4.e.2.A.ii.j: Failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Offsite sediment deposits and sediment laden water was noted in areas scattered throughout the inspected area.
June 6, 2018	W18-17-065-TJC	Section B- failed to comply with the General Permit and approved Storm Water Pollution Prevention Plan (SWPPP). Perimeter controls and treatment at water bar outlets are not in place as detailed by the SWPPP from 513+64 to 556+00. There are no BMPs in place to prevent sediment laden water from leaving the site in this area in violation of the issued permit.
July 17, 2018	W18-52-003-CP	Section G.4.e.2. - Permittee has failed to properly implement controls: installed controls failed allowing sediment laden water to leave site and flow into UNT of Birch River (S-F34). Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device- control failure near station 5518+00 (GPS

		coordinates: 38˚25.4570'N, 80˚34.2329'W deposited sediments into UNT of Birch River (S-F34).
July 18, 2018	W-18-52-004-CP	Section G.4.e.2. - Permittee has failed to implement controls appropriate for the project: inadequate controls at terminus of water bars. Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device at several locations along UNT of Harmony Creek (Photos 6-8)
July 27, 2018	W18-17-077-TJC	Section G.4.e.2.A.ii.j: Failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Offsite sediment deposits were noted in Grass Run. Section G.4.e.2.- failed to properly implement controls: improperly constructed water bars were noted throughout the inspected area.
Aug 1, 2018	W18-17-082-TJC	Section G.4.e.2.- failed to properly implement controls: improperly installed water bars were noted throughout the inspected area. Water bars did not shed stormwater off of the project area in small quantities as designed. Sheet flow BMPs (Super Silt Fence) were noted in concentrated flow areas throughout the inspected area. Section D.1.- failed to operate and maintain all erosion control devices. Improperly operated and maintained BMPs were noted in areas scattered throughout the inspected area. G.4.e.2.A.ii.f.-Failed to protect fill slopes. Concentrated flow was being directed over unstable fill slopes in areas scattered throughout the inspected area. Section G.4.e.2.A.ii.j: Failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Offsite sediment deposits and CNA were noted in areas scattered throughout the inspected area.
Aug 2, 2018	W18-52-005-CP	Section G.4.e.2. - Permittee has failed to properly implement controls: controls at Wayside/Talcott (station 9466+16) and Slate Run (station 9624+00) are insufficient to prevent the release of sediment laden water into adjacent streams of Stony Creek and Slate Run. Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device at Wayside/Talcott (station 9416+16) and Slate Run (station 9624+00)
Aug 10, 2018	W18-09-083-TJC	Section G.4.e.2.- failed to properly implement controls: improperly installed water bars were noted throughout the inspected area. Water bars installed at steep angles were observed during the inspection. Water bars that discharged stormwater into unstable diversions as well as water bars that terminated prior to the edge of the LOD and did not discharge stormwater off site in small quantities as designed were observed. Section D.1.- failed to operate and maintain all erosion control devices. BMPs that were not properly operated and maintained

		that caused offsite sediment deposits were noted in areas scattered throughout the inspected area. G.4.e.2.A.ii.f.-Failed to protect fill slopes. Concentrated flow that was being directed over fill slopes and/or unstable diversions that caused fill slope erosion were noted in areas scattered throughout the inspected area. Section G.4.e.2.A.ii.j: Failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Offsite sediment deposits and CNA were noted in areas scattered throughout the inspected area.
Aug 13, 2018	W18-10-001-JHH	Section G.4.e.2.- failed to implement controls appropriate for the project: perimeter controls are being used for concentrated flow in multiple locations on the project, silt fence being installed on the southern portion of the pad area was not joined or trenched in properly. Section D.1.- failed to operate and maintain erosion control devices: perimeter controls in multiple locations on the project have not been maintained. Section G.4.c: Failed to modify your SWPPP when it proves to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges: alterations /modifications to the SWPPP have not occurred in areas where failed controls have repeatedly led to off-site sediment loss. Section B- failed to comply with the General Permit and approved Storm Water Pollution Prevention Plan (SWPPP): The roadside diversion with checks and several cross drains were not in place on site as prescribed in the SWPPP. This lack of stormwater control in the lower portion of the site was causing unnecessary erosion, lack of treatment and standing water in the fuel storage area. Section G.4.e.2.A.ii.j: Failed to prevent sediment-laden water from leaving the site without going through an appropriate device: this was evident at six different locations along the project LOD perimeter.
Aug 15, 2018	W18-52-006-CP	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls- Water bar terminus needed maintenance near Bingham Road station 7450+00 (Photo 5), timber mat bridge fabric was torn station 7465+00 (Photos 9& 10), CFS needs maintenance near Bingham Road (Photo 12) and station 7232+00 (Photos 13 & 14) Section G.4.c. - Permittee has failed to modify your SWPPP when the SWPPP proves to be ineffective - water bar terminus at station 7084+00 has failed allowing release of sediment laden water to leave site; controls added to have proved inadequate to control flow. Inadequate number of water bars are installed on slope between 7084+00 to 7093+50 leading to continued failure of installed water bars. Section G.4.e.2. - Permittee has failed to properly implement controls: inadequate controls were installed near ROW entrance of

		Bingham Road station 7450+00 (Photo 11), water bars were improperly sloped near Bingham Road station 7450+00 (Photos 1-4), water bars lacked outlet near Bingham Road station 7450+00 (Photos 6-8), inadequate controls installed at base of fill slope at 7158+00 (Photos 17 & 18), inadequate number of water bars were installed between stations 7084+00 to 7093+50 (photos 21 & 22), inadequate controls were installed at water bar terminus at station 7084+00 (photos 23-30) and ditch checks were not installed in road side ditch below failed control at 7084+00. Section G.4.e.2.A.i.b. - Permittee has failed to provide interim stabilization on areas where construction activities have temporarily ceased for more than 21 days, specifically on waste piles near Bingham Road station 7465+37 (Photos 19 & 20), Bamboo Road station 7158+00 (Photos 15 & 16) and all other areas where applicable. Section G.4.e.2.A.ii.f. - Permittee has failed to protect fill slopes at station 7158+00 (Photos 15 & 16). Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device- sediment laden water from failed water bar terminus is conveyed through road side ditch into culverts to leave perimeter at GPS location 38˚5.84131'N, 80˚43.1339'W (photos 28-30).
Sept 11, 2018	W18-52-008-CP	Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device at Station 900 where concentrated flow has over topped installed perimeter controls.
Sept 20, 2018	W18-52-009-CP	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls- Silt fence along access road 231.01 off Painters Run Road near station 10270 needs replaced. Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device- controls failed along access road 231.01 off Painters Run Road near station 10270.
Sept 25, 2018	W18-52-011-CP	Section G.4.e.2. - Permittee has failed to properly implement controls: inadequate perimeter controls installed at base of fill slope at station 550, which allowed sediment laden water to release into UNT of Little Kanawha River (photos 1-3). Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device into UNT of Little Kanawha River (photos 1-3).
Sept 25, 2018	W18-52-010-CP	Section G.4.e.2. - Permittee has failed to properly implement controls: inadequate controls at sumps near station 3625+00 and perimeter controls near station 3634+00 which allowed sediment laden water to leave site (photo 1-6). Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device in UNT of Knawls Creek.

Sept 26, 2018	W18-32-001-JTL	Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Off-site sediment deposits in multiple locations were observed from station numbers 9915+00 through 9897+00. Section D.1-Permitte has failed to properly operate and maintain all facilities and systems: Evidence was observed that waterbar outlets where not being maintained to limit impacts off the ROW.
Sept 27, 2018	W18-32-002-JTL	Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device: At station #9630+00 SLW was entering Stream S-A60. SLW was observed leaving portions of ROW and entering Indian Creek at the CR 23/9, SLW was observed leaving portions of ROW near Station numbers 9417+75, 9779+00 and 9778+00. Impacted areas include Stream SA60, Stream S-Z4, Stream S-Z5, Wetland W-22 and Indian Creek. Section G.4.e.2.D.i. - Permittee has failed to inspect and clean all adjacent public and private roads of debris originating from the construction site along CR 23/9 Ellison ridge road. Section D.1-Permitte has failed to properly operate and maintain all facilities and systems: Multiple waterbar outlets were being overwhelmed at the time of inspection.
Oct 2, 2018	W18-32-003-JTL	Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device near station #9687. Off site sediment deposits were also observed at station numbers 9717+52 and 9724+51. Section G.4.e.2.A.ii.f. - Permittee has failed to protect fill slopes and stabilize channels at station #9687. Section D.1-Permitte has failed to properly operate and maintain all facilities and systems: Evidence was observed that BMP's were not being maintained to limit impacts off the ROW.
Oct 3, 2018	W18-52-012-CP	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls unacceptable amount of sediment was left in sumps after maintenance was performed at Painters Run Road station 10270.
Oct 10, 2018	W18-52-013-CP	Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device at AR 210 and Painter's Run Road station 10270. Section G.4.e.2.D.i. - Permittee has failed to inspect and clean all adjacent public and private roads of debris originating from the construction site at AR 210 and Painter's Run Road station 10270.
Oct 25, 2018	W18-52-033-RDD	Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device at Station 489 and 493. Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls stabilized diversion ditch near Mainion Run, perimeter controls near Sams run crossing, and waterbars and associated sumps near Sams Run.

Nov 27, 2018	W18-52-014-CP	Section G.4.e.2. - Permittee has failed to properly implement controls sufficient to prevent release of sediment laden water into Knawl's Creek. Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device entering Knawl's Creek.
Nov 30, 2018	W18-17-113-TJC	Section G.4.e.1.E.: Permittee has failed to provide an adequate stone access entrance/exit to reduce the tracking of sediment onto the public or private roads. Access Roads WV-HA – 31.1 off CR 50/4, WV-HA-29.04 off CR 50/5 and WV-HA-29.5 off CR 50/5 lacked a stable construction entrance and track out was noted on the adjacent public roadways as a result. Section G.4.e.2.D.i.: Permittee has failed to inspect and clean all adjacent public and private roads of debris originating from the construction site. The responsible party was making an attempt to clean track out debris from CR 50/5 at the time of inspection, however a film of sediment that originated from the site covered the road.
Feb 6, 2019	W19-32-002-JTL	Section G.4.e.2.A.ii.j - Permittee has failed to prevent sediment-laden water from leaving the site without going through an appropriate device at the MVP contractor yard in Beaver, WV. Sediment laden water was entering an UNT of Brammer Branch. Section D.1-Permitte has failed to properly operate and maintain all facilities and systems: Evidence was observed that BMP's were not being maintained in and along a drainage ditch that flowed through the yard and terminated upslope of the UNT of Brammer Branch causing Conditions Not Allowable. Section G.4. - Permittee has failed to comply with the General Permit and approved Storm Water Pollution Prevention Plan (SWPPP). Erosion control devices near station number 8816+00 are not in place as detailed by the SWPPP.
Feb 11, 2019	W19-34-003-JTL	Section G.4.e.2-Permittee failed to implement controls appropriate for the project. Evidence that enhanced erosion was occurring in the waterbar and slopes near station 6017+50 and at station 5960+50 erosion occurring on the slope and SLW being concentrated in wetland W-IJ-55 with the potential to migrate off site. Section D.1-Permitte has failed to properly operate and maintain all facilities and systems: Evidence was observed at station 5960+50 that BMP's were not being maintained causing Sediment Laden Water to be present in Wetland W-IJ-55. Section G.4.e.2.A.ii.e.-Permittee has failed to protect fill slopes by diverting runoff away from the slope to a stable channel. At Station 5960+50 above Wetland W-IJ-55 erosion was occurring on the slope and no diversion was in place to convey runoff to a stable channel.
Apr 22, 2019	W19-45-008-JTL	Section D.1.-Permittee failed to properly operate and maintain all systems of treatment: Controls implemented on slope above stream S-T35(A) had sediment build up in waterbars due to erosion

		occurring on slope. Section G.4.c-Permittee failed to modify the SWPPP by taking measures to ensure compliance with the permit: Waterbars were implemented incorrectly between stations 8438+00 through 8628+00. Section G.4.e.2.A.ii.j - Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device at station #8633+71. Evidence of Sediment laden water and sediment deposits were observed to have impacted Stream S-T35(A) a tributary of Lick Creek. Section G.4.e.2.A.ii.f. - Permittee failed to protect fill slopes between station #8638+00 and #8628+00: Erosion on slope due to improper Waterbar implementation. Section G.4.e.2. - Permittee failed to properly implement controls appropriate for the project: Waterbars were installed to terminate on the ROW at station #8633+71 causing erosion to occur on the ROW and sediment to impact Stream S-T35(A).
May 13, 2019	W19-45-010-JTL	Section G.4. - Permittee has failed to comply with the General Permit and approved Storm Water Pollution Prevention Plan (SWPPP). Waterbar outlet controls near station #8399+10 were not in place at the time of installation as detailed by the SWPPP.
May 24, 2019	W19-45-015-JTL	Section G.4.c.- Permittee has failed to modify the Storm Water Pollution Prevention Plan (SWPPP): Perimeter controls were not in place at the base of a soil pile allowing sediment deposits past the LOD at station 8387+96.
May 29, 2019	W19-04-013-JTL	Section D.1-Permitte has failed to properly operate and maintain all facilities and systems: Evidence was observed at station 4031+00 and 4027+00 that controls were not being maintained causing Sediment to be transported past the LOD. Section G.4.e.2-Permittee has failed to implement controls appropriate for the project: Evidence that enhanced erosion was occurring on ROW, in Waterbars and slopes near station 4031+00 and 4027+00 was observed. Section G.4.e.2.A.ii.e.-Permittee has failed to protect fill slopes by diverting runoff away from the slope to a stable channel: At Stations 4030+00 and 4027+00 waterbars were terminating onto the fill slope causing controls to be overwhelmed along the perimeter and sediment to be transported past the LOD. Section G.4.e.2.A.ii.j.-Permittee has failed to prevent sediment laden water from leaving the site without going through an appropriate device: Sediment deposits from SLW leaving the site was observed at station No.'s 4030+00 and 4027+00.
May 30, 2019	W19-34-014-JTL	Section D.1-Permitte has failed to properly operate and maintain all facilities and systems: Evidence was observed at stations 6474+16, 6478+48, 6508+30, 6510+10 and 6514+60 that controls were not being maintained causing Sediment to be deposited past the LOD. Section G.4-Permittee has failed to follow approved SWPPP: At station 6945+00 ROW diversion had not been installed per SWPPP.

		Station No. 6497+50 Perimeter controls not installed per SWPPP. Section G.4.e.2.A.i.d. - Permittee has failed to stabilize clean water diversions prior to becoming functional: Above stream S-EE1 and at station 6485+10 clean water diversions had not been stabilized prior to becoming functional. Section G.4.e.2-Permittee failed to implement controls appropriate for the project: Controls had not been enhanced and/or implemented at stations 6508+30, 6510+40 and 6514+60 to eliminate sediment from being deposited past the LOD. Section G.4.e.2.A.ii.j-Permittee has allowed sediment laden to leave the site without going through and appropriate device: At station No.'s 6508+30, 6510+40 and 6514+60 evidence that SLW had left the site was observed.
June 5, 2019	W19-51-015-JTL	Section D.1-Perimittee has failed to at all times properly operate and maintain all systems of treatment and control: Construction entrance at Rt 82 crossing was not maintained to prevent sediment laden water and sediment to be deposited past the permitted LOD. Section G.4.e.2.A.ii.j_Permittee has failed to prevent sediment laden water from leaving the site without going through an appropriate device: At the Route 82 crossing sediment deposits and sediment laden water were observed past the LOD. Sediment deposits were observed in the roadside ditch that paralleled Route 28 as well as downslope past a culvert outlet approximately 500 feet past the LOD.
June 12, 2019	W19-32-17-JTL	Section G.4.e.2.A.ii.j-Permitee has allowed sediment laden to leave the site without going through and appropriate device: At station No. 9780+00 evidence that SLW had left the site was observed due to a significant amount of sediment deposits and scouring being present past controls and LOD. At the Dargo silt fence downslope of station No. 9780+00 sediment deposits was observed past controls and the LOD.
June 19, 2019	W19-51-018-JTL	Section G.4.e.2.A.ii.j-Permittee has allowed sediment laden to leave the site without going through and appropriate device: At station No. 6587+00 evidence was observed that sediment laden water had left the site due to sediment deposits being present past controls and the LOD above Stream S-L38.
July 9, 2019	W19-45-021-JTL	Section G.4.e.2.A.ii.j- allowed sediment laden to leave the site without going through and appropriate device: At station No. 8634+00 evidence that SLW had left the site was observed due to impacts to Stream S-T35A and impacts off site past controls and LOD.
July 18, 2019	W19-51-024-JTL	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls: Along AR-MVP-WB-119 multiple controls had not been maintained allowing sediment to be deposited past the LOD. At station No. 4559+96 sediment deposits were observed in a ditch that was located along AR-WB-119. At station No.'s 4559+96 and 4539+00 controls had not been

		maintained leading to controls becoming overwhelmed with sediment and sediment laden water being observed past the LOD. Section G.4.e.2.A.ii.j-Permittee has allowed sediment laden to leave the site without going through and appropriate device: At station No. 4559+96 and at several locations along AR-MVP-WB-119; evidence was observed that sediment laden water had left the site due to sediment deposits being present past controls and the LOD downslope of AR-MVP-WB-119. At and near station No. 4539+00 SLW was observed leaving the ROW; flowing past controls and entering the roadside ditch that flows downslope towards the ROW crossing with AR-MVP-WB-119 and was conveying downslope through a culvert inlet/outlet approximately 400 feet past the LOD towards Fall Run a tributary of the Holly River.
Aug 1, 2019	W19-04-025-JTL	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls: At Access Roads BR-095, BR-097 and BR-099 controls had not been maintained and at station No.'s 3831+00 through 3829+00 controls had not been implemented correctly and or were not being maintained causing erosion and sediment to be deposited past the LOD. Section G.4.e.2.A.ii.f. - Permittee has failed to protect fill slopes: At station No.'s 3831+00 through 3829+00 fill slope erosion was occurring between waterbars causing controls to be overwhelmed and sediment deposits to be present in the ditch that parallel's US 19/HWY 4 and past the LOD at station No. 3831+00. Section G.4.e.2. - Permittee has failed to implement controls appropriate for the project: At station No. 3831+00 through 3829+00 waterbars were terminating onto the ROW causing erosion to occur on the slope that led to control failures above US19/Hwy4. Section G.4.e.2.A.ii.j.-Permittee has failed to prevent sediment laden water from leaving the site without going through an appropriate device: Sediment deposits were observed past the LOD at station No. 3831+00 and in a roadside ditch that parallels US 19/HWY 4 at station No. 3829+00. At Access Road MVP-BR-097 sediment deposits were present past the LOD. In the Roadside ditch near station No. 3897+75 downslope of MVP-BR- 099 sediment deposits were observed above Stream S-K34/35. Sediment deposits were observed past the LOD due to a Waterbar failure South of BR-099 on MVP ROW. Sediment deposits were present past LOD at BR-097.
Aug 7, 2019	W19-45-026-JTL	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls: At Station No.'s 8951+00 through 8956+00 erosion was present in waterbars. Several Waterbar outlets had no controls present casing erosion to occur below the termini. Sumps that were present below the Waterbar termini were overwhelmed with sediment and were not functioning as designed. Erosion present on slopes near station No. 8946+00 causing controls to be overwhelmed with sediment and not functioning as designed.

		Section G.4.e.2.A.ii.f. - Permittee has failed to protect fill slopes: At station No.'s 8951+00 through 8956+00 waterbars were terminating onto a steep slope causing erosion and sediment deposits to overwhelm controls leading to sediment deposits to be present past the LOD. At station No. 8946+00 erosion was present in multiple locations on the fill slope overwhelming perimeter controls. Section G.4.e.2.A.ii.j.-Permittee has failed to prevent sediment laden water from leaving the site without going through an appropriate device: Sediment deposits were observed past the LOD at station No. 8956+00.
Aug 14, 2019	W19-04-073-TJC	Section D.1.- Mountain Valley Pipeline LLC. failed to operate and maintain all erosion control devices. A culvert on access road MVP-BR-092.01 was plugged and in need of maintenance. This allowed concentrated flow stormwater to flow from the top of the slope to the base of the slope which caused offsite sediment deposits. A water bar terminus BMP in inspected area 3 (adjacent to 3760+00) was inundated with sediment and in need of maintenance. Section G.4.e.2.A.ii.j.- Mountain Valley Pipeline LLC. failed to prevent sediment-laden water from leaving the site without going through an appropriate device. This deficiency was a result of poorly maintained BMPs which allowed sediment laden water to bypass treatment. Section B- Mountain Valley Pipeline LLC. failed to comply with the General Permit and approved Storm Water Pollution Prevention Plan (SWPPP). The approved SWPPP indicates the need for ditch checks in the upslope ditch of all access roads as well as rock outlet protection and a sediment control device placed at the outlets of the installed culverts. The access road lacked the proposed ditch checks, rock outlet protection and an installed sediment control device at the outlet of the installed culverts.
Aug 14, 2019	W19-21-074-TJC	Section G.4.e.2.- Mountain Valley Pipeline LLC. failed to properly implement controls. Water bars that were improperly installed were noted in areas scattered throughout the inspected area. Water bars that were installed at steep angles (> 12%) were noted. Water bars that were installed at varying angles were noted. Water bars that did not extend across the entire disturbed right of way and terminated prior to the installed perimeter silt fence were noted. Water bars that discharged stormwater over unprotected fill slopes were noted. Six improperly installed water bars on the project area adjacent to 2768+00 were discharging into a stabilized diversion. The installed diversion carried the stormwater to the base of the hill where it was being treated with two pieces of perimeter silt fence. The amount of stormwater being directed at the installed perimeter controls overwhelmed the BMPs and caused a significant amount of offsite sediment deposits adjacent to Cove Run. Improperly installed timber mat equipment bridges were noted at the Clover Run, Oil Creek and Cove Run (S-K-45)

		crossings. The installed perimeter controls were not properly merged with the installed timber mat equipment bridges which caused areas where sediment laden water could bypass treatment. An improperly installed straw bale dewatering structure was noted in the Cove Run watershed adjacent to 2770+00. The dewatering structure had a layer of impermeable plastic inside of the geotextile fabric which caused the structure to not function as designed. Section D.1.- Mountain Valley Pipeline LLC. failed to operate and maintain all erosion control devices. Perimeter controls that were in need of maintenance were noted in areas scattered throughout the inspected area. This deficiency caused sediment laden water to bypass treatment and led to offsite sediment laden water adjacent to 2919+50. The offsite sediment laden water adjacent to 2919+50 occurred due to a dewatering operation at the time of inspection. Section G.4.e.2.A.ii.j. - Mountain Valley Pipeline LLC. failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water bypassed treatment due to improperly installed BMPs and poorly maintained BMPs.
Aug 26, 2019	W19-09-028-JTL	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls: At station No.'s 1833+50 and 1730+00 controls were not being maintained leading to perimeter controls being overwhelmed with sediment causing them not to function as designed. Section G.4.e.2.A.ii.j.-Permittee has failed to prevent sediment laden water from leaving the site without going through an appropriate device: Evidence that Sediment Laden water left the site was observed due to sediment deposits being observed past the LOD due to control failures at Station No.'s 1833+00 and 1730+00.
Sept 9, 2019	W19-21-029-JTL	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls: At the Route 21/Indian Fork crossing (Station No. 3089+00) controls had not been maintained or enhanced allowing sediment laden water to leave the ROW and enter a roadside ditch that conveys to Indian Fork (S-H159). Section G.4.e.2.A.ii.j.-Permittee has failed to prevent sediment laden water from leaving the site without going through an appropriate device: Evidence that Sediment Laden water left the site was observed due to sediment deposits being observed past the LOD in the roadside ditch that parallels CR21 and coveys to Indian Fork (S-H159)/(Station No. 3089+00).
Sept 11, 2019	W19-17-030-JTL	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls: At station No. 645+35 the dewatering structure used for the Stream S-B75 bore was not being maintained and operated properly causing the structure to not function as designed causing conditions not allowable in Stream S-B75 (Goose Run).

		Section G.4.e.2.A.ii.j.-Permittee has failed to prevent sediment laden water from leaving the site without going through an appropriate device: Sediment Laden water was observed leaving a dewatering structure used for the boring under Stream S-B75 (Goose Run). Section G.4.e.2.A.i.b. - Permittee has failed to provide interim stabilization on areas where construction activities have temporarily ceased for more than 21 days: At station No. 645+00 slopes had not been reseeded or re-stabilized after winter stabilization measures were no longer adequate.
Nov 7, 2019	W19-04-032-JTL	Section F.1.- Permittee failed to immediately notify WVDEP of impacts to a water of the state (Elliott Run/Stream S-L49) pursuant to 47CSR11-2 (Special Rules) of the West Virginia Legislative Rues promulgated pursuant to Chapter 22, Article 11. Section G.4.e.2. - Permittee has failed to implement controls appropriate for the project: A Waterbar above the slip that occurred and impacted Elliott Run at station No. 3946+00 was terminating onto the ROW and had no outlet controls present.
Dec 12, 2019	W19-45-034-JTL	Section D.1. - Permittee has failed to properly operate and maintain all systems of treatment and controls: At station No. 8433+50 run on from a seep and improper tracking of the slope caused downslope controls to be overwhelmed with SLW/Sediment deposits leading to SLW to be observed past the LOD and controls.
Aug 11, 2020	W20-34-003-JTL	Section D.1. - Permittee failed to properly operate and maintain all systems of treatment and controls: From station No.'s 6482+90 (Rt.39 crossing) to No. 6485+50 reseeding had not occurred after temporary seed mixes either didn't germinate and or dyed off having less than 70 percent coverage at the time of inspection. Controls in waterbars and fill slopes had been overwhelmed with sediment leading to sediment deposits being observed past the LOD near station No. 6485+50. Erosion was occurring on fill slopes between Station No.'s 6482+90 through 6485+50. Waterbars were terminating onto fill slopes causing enhanced erosion to occur. G.4.c. - Permittee failed to modify the SWPPP proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activities. At stations No. 6482+90 through 6485+50 waterbars were terminating onto fill slopes lacking either slope drains and/or waterbar sumps at the outlets. G.4.e.2.A.i.c. – Permittee failed to reseed where the seed has failed to germinate adequately (uniform perennial vegetative cover with a density of 70%) within 30 days after seeding and mulching from Station No.'s 6482+90 through 6485+50 at the Route 39 crossing and fill slopes South of the crossing at Station No. 6485+50. G.4.e.2.A.ii.f. Permittee failed to protect fill slopes by measures used to divert runoff away from fill slopes to conveyance measures such as pipe slope drains or stable channels. At station No. 6482+90

		fill slopes had rill and gully erosion present leading to controls being overwhelmed and sediment deposits present pas the LOD. G.4.e.2.A.ii.j. – Permittee allowed Sediment laden Water to leave the site without going through an appropriate best management practice. At station No. 6485+50 sediment deposits were observed past the LOD.
Aug 17, 2020	W20-34-004-JTL	Section D.1. - Permittee failed to properly operate and maintain all systems of treatment and controls: At Station No. 6613+00 a Waterbar was terminating onto the fill slope causing significant erosion downslope of the outlet leading to controls needing maintained and or enhanced. G.4.c.- Permittee failed to follow and or modify the SWPPP when it proved to be ineffective. At Station No. 6613+00 A Waterbar was terminating onto the slope causing significant erosion. Run-on was also leading to erosion at the side cut casing sediment to be deposited into the downslope Waterbar leading to concentrated flow in downslope waterbars. G.4.e.2.A.i.c. – Permittee failed to reseed where the seed has failed to germinate adequately (uniform perennial vegetative cover with a density of 70%) within 30 days after seeding and mulching at Station No. 6613+00. G.4.e.2.A.ii.f. Permittee failed to protect fill slopes by measures used to divert runoff away from fill slopes to conveyance measures such as pipe slope drains or stable channels. At station No. 6613+00 fill slopes had erosion present due to a Waterbar terminating onto the slope. Significant erosion was present leading to sediment being deposited into waterbars and sumps at the Waterbar outlets above Stream S-L35. Run on was causing erosion leading to sediment being deposited into waterbars downslope of the side cut.
Sept 9, 2020	W20-52-065-RDD	Section G.4.e.2.A.ii.j - MOUNTAIN VALLEY PIPELINE, LLC has failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Sediment laden water was leaving the site near Stout Run Road through silt sock. Section D.1. - MOUNTAIN VALLEY PIPELINE, LLC has failed to properly operate and maintain all systems of treatment and controls- Sediment laden water was leaving the site near Stout Run Road through silt sock.
Sept 16, 2020	W20-34-005-JTL	Section D.1.- Permittee failed to properly operate and maintain all systems of treatment and controls: At Station No. 6657+00 through 6450+76 and at Stations 6707+00 through 6698+00 Erosion was occurring between and within the waterbars on slopes conveying run off onto fill slopes causing erosion downslope of the Waterbar outlets. Controls were either not being implemented to reduce sheet flow rates and/or if present not being maintained. G.4.e.2.A.i.c. – Permittee failed to reseed where the seed has failed to germinate adequately (uniform perennial vegetative cover with a density of 70%) within 30 days after seeding and mulching at Station No.'s 6657+00 through 6450+76 and at Stations 6707+00

		through 6698+00. Reseeding had not occurred in these areas leading to slopes becoming destabilized causing erosion to occur. G.4.e.2.A.ii.f. Permittee failed to protect fill slopes by measures used to divert runoff away from fill slopes to conveyance measures such as pipe slope drains or stable channels. At station No.'s 6657+00 through 6450+76 and at Stations 6707+00 through 6698+00 fill slopes had erosion present due to lack of stabilization measures being implemented within the LOD.

These citations by WVDEP inspectors for non-compliance with MVP's stormwater construction permit demonstrate that WVDEP cannot rely on MVP's use of the "industry-standard" BMPs outlined in its application and SWPPP to ensure that the project will be able to meet water quality standards. Therefore, WVDEP must deny MVP's application because the project has not, cannot, and will not be able to meet water quality standards.

WVDEP must complete an antidegradation review for all 200 streams crossed by MVP.

West Virginia's antidegradation implementation procedures are codified in W. Va. C.S.R. §60-5-1. The Antidegradation Review Process is outlined in §60-5-3. To determine an activity's compliance with West Virginia's antidegradation policy, the WVDEP must (1) determine the existing uses of the receiving waterbody associated with the proposed activity, (2) determine the baseline water quality for the receiving waterbody, and (3) determine the tier of protection applicable to the receiving waterbody.

In accordance with Section 3.5, WVDEP must require MVP to collect baseline water quality data on all streams receiving runoff from the MVP construction Right Of Way. Parameters should include but are not limited to turbidity, conductivity, total suspended solids and dissolved oxygen. Furthermore, as outlined in Section 3.8, WVDEP must perform the antidegradation review because MVP is not covered under the Army Corps of Engineers Nationwide Permit and has requested an Individual 404 permit. To comply with Section 5.7 of the Antidegradation Review Process, WVDEP must require MVP to submit an evaluation of alternatives. We request a separate public notice and comment period to review and comment on the results of the antidegradation review.

In summary, Mountain Valley Pipeline's 401 Application fails to address significant impacts to the state's water resources that will occur as a result of the project. WVDEP must deny the application based on the fact that MVP cannot meet water quality standards and adverse impacts to water quality and aquatic resources are eminent if the construction is allowed to proceed. We request an antidegradation review and 401 Water Quality Certification for boring activities accompanied with additional comment periods.

Signed,

Angie Rosser
West Virginia Rivers Coalition

Larry Thomas
West Virginia Highlands Conservancy

Linda Frame
West Virginia Environmental Council

Vivian Stockman
Ohio Valley Environmental Coalition

Traci Hickson
Earthworks

Howdy Henritz
Indian Creek Watershed Association

John J. Walkup, III
Greenbrier River Watershed Association

Eric Engle
Mid-Ohio Valley Climate Action

David Sligh
Wild Virginia

Beth Little
Eight Rivers Council

Allen Johnson
Christians for the Mountains

Russell Chisolm
Protect Our Water, Heritage, Rights

Brent Walls
Upper Potomac Riverkeeper

Chad Oba
Friends of Buckingham

Irene E. Leech
Virginia Citizens Consumer Council